

**FILED**

**JUN 09 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RANDALL J. BEMIS,

Defendant - Appellant.

No. 05-35199

D.C. Nos. CV-04-06349-ALA  
CR-03-60036-1-ALA

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Oregon  
Ann L. Aiken, District Judge, Presiding

Submitted June 5, 2006<sup>\*\*</sup>

Before: CANBY, T.G. NELSON and KLEINFELD, Circuit Judges.

We have reviewed the opening brief. This appeal is appropriate for summary disposition under Ninth Circuit Rule 3-6 because appellant challenges his sentence based on *United States v. Booker*, 543 U.S. 220 (2005), but *Booker*

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

05-35199

does not apply to cases on collateral review. *United States v. Cruz*, 423 F.3d 1119, 1120-21 (9th Cir. 2005) (per curiam).

**AFFIRMED.**